

KAUAI PLANNING COMMISSION  
REGULAR MEETING

RECEIVED

Tuesday, September 12, 2017

17 SEP -6 P4:27

9:00:01 a.m. or Soon Thereafter  
Lihue Civic Center, Moikeha Building  
Meeting Room 2A-2B  
4444 Rice Street, Lihue, Kauai, Hawai'i

OFFICE OF  
THE COUNTY CLERK  
COUNTY OF KAUAI

AGENDA

- A. CALL TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. MINUTES of the meeting(s) of the Planning Commission
  - 1. Regular Meeting of July 25, 2017
  - 2. Regular Meeting of August 8, 2017
  - 3. Workshop of August 8, 2017
- E. RECEIPT OF ITEMS FOR THE RECORD
- F. HEARINGS AND PUBLIC COMMENT (Noticed hearings will not commence until 9:00 a.m. or soon thereafter.) Individuals may orally testify on items on this agenda during the Public Comment Period. Please call the Planning Department prior to the meeting or notify Commission Staff at the meeting site. Testimony shall also be accepted when the agenda item is taken up by the Commission. However if an individual has already testified during this period, additional testimony at the agenda item testimony may be allowed at the discretion of the Chair. Testifiers shall limit their testimony to three (3) minutes, but may be extended longer at the discretion of the Chair. Written testimony is also accepted. An original and twelve (12) copies of written testimony can be hand delivered to the Planning Department or submitted to Commission Staff at the meeting site.
  - 1. Continued Agency Hearing
    - a. Class IV Zoning Permit Z-IV-2017-6 and Variance Permit V-2017-2 to deviate from the minimum lot size requirement within the Agriculture (A) zoning district, pursuant to Section 8-8-3(b) of the Kauai County Code (1987) as amended, involving a parcel situated on the makai side of Kuhio Highway in Kilauea, approx. 600 ft. north of the Waiakalua Street/Kuhio Highway intersection and further identified as Tax Map Key (4) 5-1-005:132, and affecting a total area of 27,450 sq. ft. = **Brian Lansing & David Camp**. [Director's Report (DR) received 3/28/17, DR Sup 1 received, hearing deferred 4/11/17, DR Sup 2 received, hearing deferred 6/27/17.]
      - 1. Supplemental No. 3 to Director's Report pertaining to this matter.

**F. HEARINGS AND PUBLIC COMMENT (Cont'd)**

**2. New Agency Hearing**

- a. Special Management Area Use Permit SMA(U)-2018-1 and Class IV Zoning Permit Z-IV-2018-1 for a development involving the construction of a one-story & two-story single-family residences, and a two-story residential duplex, and Variance Permit V-2018-1 to deviate from the land coverage requirement within the Residential (R-20) zoning district, located on properties along the makai side of Kuhio Highway in Waipouli identified as 879 & 883 Niulani Road, further known as Tax Map Keys: 4-3-009:043 & 44, and containing a total area of 18,125 sq. ft. = ***Masakatsu Katsura (YMM, LLC)***. [Director's Report received by Commission Clerk 8/22/17.]

1. Supplemental No. 1 to Director's Report pertaining to this matter.

- b. Special Management Area Use Permit SMA(U)-2018-2 to construct a single-family residence on a parcel situated at the intersection of Weke Road and Malolo Road in Hanalei Town, further identified as 4421 Malolo Road, Tax Map Key: 5-5-002:003, and containing a total land area of 33,084 sq. ft. = ***Scott Sloan Family Trust***.

1. Director's Report pertaining to this matter.

- c. Special Management Area Use Permit SMA(U)-2018-3 for the construction of a public shared use path extending from Papaloa Road to the Uhelekawawa Canal, and associated improvements involving an existing parking lot and a new comfort station, and Shoreline Setback Variance Permit SSV-2018-1 to deviate from the shoreline setback requirement, involving several properties along the makai side of Kuhio Highway in Waipouli identified as Tax Map Keys: 4-3-002:001, 012-016, 019, 020; 4-3-007:009, 011, 027, 028; 4-3-008:016, and containing a total area of approx. 2.14 acres = ***County of Kauai, Department of Public Works***.

1. Director's Report pertaining to this matter.

2. Supplemental No. 1 to Director's Report.

3. Petition to Intervene by Wailua-Kapaa Neighborhood Association.

- d. Class IV Zoning Permit Z-IV-2017-15 and Use Permit U-2017-13 to allow construction of a swimming pool and pavilion on a parcel situated within the Seacliff Plantation Subdivision in Kilauea, located along the mauka side of Makanaano Place, further identified as 2183F Makanaano Place, Tax Map Key: 5-2-004:091, and affecting a portion of a larger parcel containing 5.204 acres = ***Robert Leonard***. [Director's Report received 7/11/17, hearing POSTPONED due to applicant's notification of abutting owners 7/25/17.]

1. Supplemental No. 1 to Director's Report pertaining to this matter.

**3. Continued Public Hearing**

**4. New Public Hearing**

**5. All remaining public testimony pursuant to HRS 92 (Sunshine Law)**

**G. CONSENT CALENDAR**

**1. Status Reports**

**G. CONSENT CALENDAR (Cont'd)**

**2. Director's Report(s) for Project(s) Scheduled for Agency Hearing on 9/26/17**

- a. Special Permit SP-2018-2, Use Permit U-2018-1 and Class IV Zoning Permit Z-IV-2018-1 to construct and operate a solar utility facility on a parcel located on the makai side of Koloa Road, approx. 600 ft. south east of the Koloa Road and Lawailoa Lane intersection, further identified as Tax Map Key (4) 2-6-003:001, and containing a project area of approx. 196.33 acres of a 1,062.291 acre parcel = *AES Lawai Solar*.

1. Director's Report pertaining to this matter.

**H. EXECUTIVE SESSION**

**I. GENERAL BUSINESS MATTERS**

1. Clerk of the Commission's Recommendation to Refer an Appeal of the Planning Director's Decision Related to the Forfeiture of Non-Conforming Use Certificate TVNCU#1166, Victor Meschures/PMD Hanalei LLC (Weke Road Estate), for Failure to Timely Renew, Tax Map Key (4)55002012, Hanalei, Kauai, received on August 25, 2017 via email, to a Hearings Officer (Contested Case Hearing No. CC-2017-5); Request for Delegation of Authority to the Clerk of the Commission to Procure and Appoint a Hearings Officer on Behalf of the Commission for the Instant Appeal.
  - a. Letter (9/5/17) from Gregory W. Kugle, Esq., and Loren A. Seehase, Esq., re Amended Notice of Appeal and Demand for Contested Case Hearing from Cease & Desist, and Forfeiture of TVRNCU, and Denial of Non-Conforming Use Certificate Renewal Application.
2. Clerk of the Commission's Recommendation to Refer an Appeal of the Planning Director's Decision Related to the Forfeiture of Non-Conforming Use Certificate TVNCU#1202, Earl Smith Trust/Anininina LLC (Hiolani at Haena), for Failure to Timely Renew, Tax Map Key (4)58008040, Haena, Kauai, received on August 25, 2017 via email, to a Hearings Officer (Contested Case Hearing No. CC-2017-6); Request for Delegation of Authority to the Clerk of the Commission to Procure and Appoint a Hearings Officer on Behalf of the Commission for the Instant Appeal.
  - a. Letter (9/5/17) from Gregory W. Kugle, Esq., and Loren A. Seehase, Esq., re Amended Notice of Appeal and Demand for Contested Case Hearing from Cease & Desist, and Forfeiture of TVRNCU, and Denial of Non-Conforming Use Certificate Renewal Application.
3. Clerk of the Commission's Recommendation to Refer an Appeal of the Planning Director's Decision Related to the Forfeiture of Non-Conforming Use Certificate TVNCU#5089 (Hanalei Ilikea), Kauains, LLC, for Failure to Timely Renew, Tax Map Key (4)55001022, Hanalei, Kauai, received on August 28, 2017, to a Hearings Officer (Contested Case Hearing No. CC-2017-7); Request for Delegation of Authority to the Clerk of the Commission to Procure and Appoint a Hearings Officer on Behalf of the Commission for the Instant Appeal.
  - a. Letter (9/5/17) from Gregory W. Kugle, Esq., and Loren A. Seehase, Esq., re Amended Notice of Appeal and Demand for Contested Case Hearing from Cease & Desist, and Forfeiture of TVRNCU, and Denial of Non-Conforming Use Certificate Renewal Application.

**I. GENERAL BUSINESS MATTERS (Cont'd)**

4. Clerk of the Commission's Recommendation to Refer an Appeal of the Planning Director's Decision Related to the Forfeiture of Non-Conforming Use Certificate TVNCU#5090 (Hanalei Nalu), Kauains, LLC, for Failure to Timely Renew, Tax Map Key (4)55001023, Hanalei, Kauai, received on August 28, 2017, to a Hearings Officer (Contested Case Hearing No. CC-2017-8); Request for Delegation of Authority to the Clerk of the Commission to Procure and Appoint a Hearings Officer on Behalf of the Commission for the Instant Appeal.
  - a. Letter (9/5/17) from Gregory W. Kugle, Esq., ad Loren A. Seehase, Esq., re Amended Notice of Appeal and Demand for Contested Case Hearing from Cease & Desist, and Forfeiture of TVRNCU, and Denial of Non-Conforming Use Certificate Renewal Application.
5. Clerk of the Commission's Recommendation to Refer an Appeal of the Planning Director's Decision Related to the Forfeiture of Non-Conforming Use Certificate TVNCU#5091 (Hanalei Bay Hale), Kauains, LLC, for Failure to Timely Renew, Tax Map Key (4)55001024, Hanalei, Kauai, received on August 28, 2017, to a Hearings Officer (Contested Case Hearing No. CC-2017-9); Request for Delegation of Authority to the Clerk of the Commission to Procure and Appoint a Hearings Officer on Behalf of the Commission for the Instant Appeal.
  - a. Letter (9/5/17) from Gregory W. Kugle, Esq., ad Loren A. Seehase, Esq., re Amended Notice of Appeal and Demand for Contested Case Hearing from Cease & Desist, and Forfeiture of TVRNCU, and Denial of Non-Conforming Use Certificate Renewal Application.
6. Clerk of the Commission's Recommendation to Refer an Appeal of the Planning Director's Decision Related to the Forfeiture of Non-Conforming Use Certificate TVNCU#5035 (Mango Cottage), Boomerang, Ltd., Inc./Charles Paterson for Failure to Timely Renew, Tax Map Key (4)260070034, Koloa, Kauai, received on August 29, 2017, to a Hearings Officer (Contested Case Hearing No. CC-2017-10); Request for Delegation of Authority to the Clerk of the Commission to Procure and Appoint a Hearings Officer on Behalf of the Commission for the Instant Appeal.

**J. COMMUNICATION (For Action)**

**K. COMMITTEE REPORTS**

1. **Subdivision** Subdivision Action matters listed in the Subdivision Committee Agenda (attached).

**L. UNFINISHED BUSINESS (For Action)**

**M. NEW BUSINESS**

1. **For Action – See Agenda F for Project Descriptions**

**N. ANNOUNCEMENTS**

1. Topics for Future Meetings

**N. ANNOUNCEMENTS (Cont'd)**

2. The following regularly scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Kauai, Hawaii 96766 on **Tuesday, September 26, 2017.**

**O. ADJOURNMENT**

**EXECUTIVE SESSION:** The Commission may go into an executive session on an agenda item for one of the permitted purposes listed in Section 92-5(a) Hawaii Revised Statutes ("H.R.S."), without noticing the executive session on the agenda where the executive session was not anticipated in advance. HRS Section 92-7(a). The executive session may only be held, however, upon an affirmative vote of two-thirds of the members present, which must also be the majority of the members to which the board is entitled. HRS Section 92-4. The reason for holding the executive session shall be publicly announced.

**NOTE:** Special accommodations and sign language interpreters are available upon request five (5) days prior to the meeting date, to the County Planning Department, 4444 Rice Street, Lihue, Hawaii 96766. Telephone: 241-4050.

KAUA'I PLANNING COMMISSION  
SUBDIVISION COMMITTEE MEETING  
Lihu'e Civic Center, Mo'ikeha Building  
Meeting Room 2A-2B  
4444 Rice Street, Lihu'e, Hawaii 96766

**Tuesday, September 12, 2017, 8:30 A.M.**

**AGENDA**

**A. CALL TO ORDER**

**B. ROLL CALL**

**C. APPROVAL OF AGENDA**

**D. MINUTES of the meeting(s) of the Subdivision Committee**

1. Meeting of August 8, 2017

**E. RECEIPT OF ITEMS FOR THE RECORD (None)**

**F. HEARINGS AND PUBLIC COMMENT**

Individuals may orally testify on items on this agenda during the Public Comment Period. Please call the Planning Department prior to the meeting or notify Commission Staff at the meeting site. Testimony may also be accepted when the agenda item is taken up by the Commission at the discretion of the Chair. Testifiers shall limit their testimony to three (3) minutes, but may be extended longer at the discretion of the Chair. Written testimony is also accepted. An original and twelve (12) copies of written testimony can be hand delivered to the Planning Department or submitted to Commission Staff at the meeting site.

**G. GENERAL BUSINESS MATTERS (None)**

**H. UNFINISHED BUSINESS (None)**

**I. NEW BUSINESS (For Action)**

1. Tentative Subdivision Map Approval
  - a. Subdivision Application No. S-2018-1  
(**MARTY HOFFMAN REVOCABLE LIVING TRUST**)  
Proposed 2-lot subdivision  
TMK: (4) 2-4-003:006  
Kalaheo, Kaua'i
    1. Subdivision Report pertaining to this matter.

**J. ADJOURNMENT**

**NOTE: Special accommodations and sign language interpreters are available upon request five (5) days prior to the meeting date, to the County Planning Department, 4444 Rice Street, Suite A473, Līhu'e, Hawai'i 96766. Telephone: (808) 241-4050.**

Pursuant to Section 8-27.8 (6) of the Kaua'i County Code (1987), as amended, the following shoreline setback determinations by the Director are disclosed for purposes of public notification.

September 12, 2017

SHORELINE SETBACK DETERMINATIONS

| <b>Application No.</b> | <b>Name of Applicant(s)</b> | <b>Property I.D. (Tax Map Key)</b> | <b>Location</b> | <b>Reasons</b>   |
|------------------------|-----------------------------|------------------------------------|-----------------|--|
| SSD-2018-10            | French/Shaw                 | 2-8-019:056                        | Po'ipū          | New Single Family Residence & After-the-Fact Renovations to Existing Residence |
| SSD-2018-11            | Pe'e Road Partners          | 2-8-020:030                        | Po'ipū          | New Single Family Residence & ADU  |
| SSD-2018-12            | Pe'e Road Partners          | 2-8-020:058                        | Po'ipū          | New Single Family Residence & ADU  |
| SSD-2018-13            | Michael Karratti            | 2-1-020:023                        | 'Ele'ele        | Fence  |
| SSD-2018-14            | CMKZ, LLC                   | 2-1-003:040                        | 'Ele'ele        | Tenant Improvement   |
| SSD-2018-15            | Kawailoa Development LLP    | 2-9-001:002                        | Po'ipū          | Interior Renovation  |
| SSD-2018-16            | Kaua'i Blue                 | 2-8-016:003                        | Po'ipū          | Interior Renovation  |
| SSD-2018-17            | Elizabeth Kendrick          | 5-2-010:014                        | Kalihiwai       | After-the-Fact Spa   |